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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,643	08/22/2003	George William Dailey	2003P07970 US	9785

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03/02/2006

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EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/646,643	Applicant(s) DAILEY, GEORGE WILLIAM	
	Examiner Timothy M. Ayres	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 8-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 8-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/30/06 has been entered.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the motor assembly **operably coupled** to each of the connecting arms in claims 12 and 19 and how the pedestal is further **configured** for independent rotational motion in claims 11 and 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 12 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the motor assembly can be **coupled** to each of the connecting arms.
4. Claims 11 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to

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which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the pedestal is **configured** for independent rotational motion.

Claim Rejections - 35 USC § 102/103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3 and 8 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent 3,203,373 to King. King '373 discloses an elongated planar member (120) that has a top and bottom side and inherently can support a patient. A support assembly () includes a base (122) that defines the base plane and a pedestal (132) disposed on the base (122). A plurality of elongated connecting arms (124), with a first end defined by shafts (148,150) and a second end defined by shafts (138, 136). The first end of the elongated members (124) is pivotally attached through shafts (148,150) to the bottom of the planar member (120)

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through flanges (146,144). The second end of the elongated members (124) is pivotally attached through shafts (138,136) to the base pedestal (132). The elongated arms (124) each create an angle (A') with the plane of the base (122) as seen in the marked up figure 6. The elongated connecting arms (124) are arranged as a four bar linkage.

8. The planar member (120) is capable to move from a first position to a second position with the elongated members (124) traveling through an axis that is orthogonal to the base.

9. The means for moving the planar member from the first position to the second position is a motor assembly (178) with a worm (182) that contacts a worm gear (155) that imparts rotation to shaft (150) and the links (142) attached to the shaft (150). The plane of the first position and the plane of the second position are parallel to each other and the base plane as shown in figure 1.

10. In normal operation the angle (A') goes from an acute angle of approximately zero in a first position (collapsed) to the angle of almost 90 degrees as shown in figure 6 that give maximum height. Though a second position with an obtuse angle is not disclosed, the structure is inherently capable of traveling to an obtuse angle and nothing in the specification teaches nor suggests any reason why an obtuse angle can't or shouldn't be reached. Alternatively it would have been obvious for a person of ordinary skill to use the structure of King to travel from form a first position of an acute angle to an second position of an obtuse angle.

12. Claims 9, 10, 16-19, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,203,373 to King. King discloses every element as claimed and discussed above except a method with the step of position the patient on the planar member of the support device. At the time of the invention it would have been obvious for a person of ordinary skill in the art to use the structure of King '373 to provide a support device to move a patient since it is well known of the need for a structure to move a patient during diagnostic testing and King '373 teaches a structure

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that keeps support level to the ground and the structure allows for a number of operative positions disposed at various heights (King '373, col.1, lines 64-69).

13. Claims 11-13, 15, 20, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,203,373 to King in view of U.S. Patent 4,173,372 to Norris. King '373 discloses every element as claimed and discussed above except the pedestal configured for independent rotational motion relative to the base about a vertical axis and a motor assembly to rotate the pedestal. Norris '372 discloses a support assembly (12) for a seat (14) that is rotatable on the pedestal (10) about the vertical axis. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the assembly of King to rotate like support assembly of Norris so that the assembly can be rotated to any desired orientation.

14. Claim 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,203,373 to King in view of U.S. Patent 4,173,372 to Norris as applied to claim 24 above, and further in view of U.S. Patent 6,516,478 to Cook. King modified by Norris discloses every element above except a remote control. Cook '478 discloses every element described above as applied to claim 7. At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the assembly of King in view of Norris and add the remote control of Cook to activate the motor remotely.

15. Claims 14 obvious method of using the device of King modified by Norris and further modified by Cook.

16. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,203,373 to King in view of U.S. Patent 6,516,478 to Cook. King '373 discloses every element as described above. King '373 does not disclose expressly a remote control coupled to the motor assembly. Cook '478 discloses an adjustable height platform (10) with a motor (30) attached to scissor linkage (36,38,40,42). The motor (30) is attached through a controller (20) to a remote control (96) as shown in the block diagram of figure 5. At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the assembly of King and add the remote control of Cook to activate the motor remotely.

17. Claim 21 is an obvious method of using the device of King modified by Cook.

Response to Arguments

18. Applicant's arguments with respect to claim 1-3, 8-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TMA
2/27/06



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